IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. MISC. NO. 13791 of 2008
SMIRTI SINGH
VERSUS
STATE OF BIHAR
WITH
CR. MISC. NO. 2706 of 2008
LIYAKAT BAITHA @ MIYA BAITHA
VERSUS
THE STATE OF BIHAR
****

2 05.05.2008 Heard Counsel for the petitioners and the A.P.P. representing the State.

The two petitioners and Sanjeev Kumar Sharma along with others were made accused in a case relating to offences under Sections 302/34 of the Indian Penal Code and 27 of the Arms Act. The case was lodged in the year 2004 and the charge sheet was submitted on 10.11.2004 and co-accused Sanjeev Kumar Sharma after being arrested was put on trial by segregating the trial against the petitioners and others as they were absconding. The Trial Court in the case of Sanjeev Kumar Sharma had acquitted him of the chargers levelled against him by judgment dated 09.08.2005.

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Counsel for the petitioners submits that now when Sanjeev Kumar Sharma has already been acquitted who had made confessional statement implicating the name of the petitioners, this court by virtue of the fact that they (petitioners) had remained in jail for six months

should grant bail to them.

The judgment of Sessions Case No. 108 of 2005 produced by the petitioner itself goes to show that the offences alleged by the informant did take place and infact the submission of embellishment on the part of involvement of the petitioners and others, apart from one Nepali who is said to be the only person involved in the offences got watered down by a look of the nature of injury and the obvious mark of rape on the person of the deceased. Such injury on the person of the deceased itself goes to show that it was not possible for one person to cause such injuries. In that view of the matter, merely because Sanjeev Kumar Sharma has been acquitted after facing the trial, mainly on account of non-examination of the doctor and the Investigating Officer, would not give the petitioners the same privilege of being released on bail unless the petitioners are also put on trial. There is no dispute that the petitioners remained absconding for nearly three years and as such their case in no view of the matter is similar to co-accused Sanjeev Kumar Sharma who as noted above had promptly surrender and was put on trial leading to his acquittal.

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Accordingly, the prayer for bail on behalf of petitioners, namely, Smirti Singh and Liyakat Baitha @ Miya Baitha is hereby rejected.

However, the Trial Court is directed to conclude the trial of the petitioners within a period of one year from today. In case, the trial does not conclude within the aforementioned period, the petitioners may renew their prayer.

Anand

(Mihir Kumar Jha, J.)

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